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December 15, 2008

ORDER ON ORAL MOTION

Via Facsimile To 973-645-3841
And Regular Mail

Hon. Claire C. Cecchi
United States Magistrate Judge
Martin Luther King, Jr., Federal Building & Courthouse
50 Walnut Street
Newark, NJ 07102

Re: Jose Cruz v. Elisib Cuevas et. al.
Civil Action No. 07-4484 (JLL)

Dear Judge Cecchi:

I represent Plaintiff Jose Cruz in the above-referenced matter. The Complaint alleges that Defendant Elisib Cuevas, a special education teacher at Ferris High School in Jersey City, assaulted Plaintiff Jose Cruz, one of his students, during class in the presence of other students. I am writing to request a 60-day extension of fact discovery, currently scheduled to end on January 16, 2009, so that I can depose eyewitnesses whose names and addresses were just recently provided to me by defense counsel. I am also requesting that all other discovery end dates be pushed back by 60 days.

On September 29, 2008, Your Honor held a scheduling conference via telephone and provided the parties with a discovery schedule that is fully set forth in the Court's October 7, 2008 Scheduling Order. Pursuant to the Court's October 7, 2008 Order, the end date for fact discovery is January 16, 2009. During the September 29, 2008 scheduling conference, I informed the Court that Defendant Jersey City Public Schools had provided me with written statements from six Ferris High School students who witnessed Defendant Elisib Cuevas assault Plaintiff Jose Cruz. However, the statements were redacted, with the names of the student-witnesses blacked out. I informed the Court that I wanted Defendants to provide me with un-redacted copies of these witness statements and with the names and last known addresses of the students who provided the statements.

On October 16, 2008, Mr. David Hawkins, attorney for Defendant Cuevas, agreed to provide me with un-redacted copies of the statements and with the names and address of the student-witnesses who prepared the statements. Mr. Hawkins explained that it would take some time to provide me with the requested information, because New Jersey Administrative Code 6A:32-7.6 requires schools to provide students with notice that their statements are being released.

On December 8, 2008, I received un-redacted copies of five of the six witness statements, together with the names and addresses of the students who prepared the statements. Since these students are eyewitnesses, their testimony is very important to the case. Unfortunately, I cannot locate these students, serve them with subpoenas and depose them before January 16, 2009. Thus, I respectfully request that all discovery be pushed back 60 days so that I can depose these witnesses.

Thank you for your thoughtful consideration of this matter. If you have any questions, please call me at 201-319-0200.

Respectfully submitted,



Raoul Bustillo, Esq.

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The deadline for completion of fact discovery is hereby extended to March 16, 2009. Affirmative expert reports shall be served by April 16, 2009. Responding expert reports shall be served by May 18, 2009.

SC ORDERED

s/Claire C. Cecchi

Claire C. Cecchi, U.S.M.J.

Date: 12/16/08